

**PRESENT:** Supervisor Reiter; Councilmembers Bax, Marra, Winkley; Deputy Sup. Catlin; WWTP Chief Oper. Lockhart; Building Inspector Masters; Atty. Dowd; Engineer Wzontek; Director of Finance Johnson; 50 residents; 3 Press and Clerk Donna Garfinkel

**ABSENT:** Councilman Palmer excused

The Supervisor opened meeting at 6:00 p.m. followed by the Pledge of Allegiance and a moment of silent reflection in respect for Frank Silvernail, member of the Wind / Tower Energy Research Committee and Leonard Cassick a member the Lewiston #1 Fire Dept.

Reiter asked how many residents are in attendance to speak in regards to the proposed Border Patrol request on Upper Mountain Road. A majority of those present raised their hands.

The Board received a letter from the Planning Board stating that they recommend denial of the rezoning request from Mark Partners for a Border Patrol site on Upper Mountain Road, SBL# 102.18-1-7.2.

**Winkley MOVED to accept the Planning Boards recommendation of denial of the rezoning request from Mark Partners for a Border Patrol site on Upper Mountain Road, Seconded by Bax and Carried 4 – 0.**

RESIDENTS:

Rosemary Warren of 5842 Griffin Street – Warren is a little annoyed because the meeting starts at 6 p.m.. The meeting should start at 7:00 p.m. Warren is not against the dog park, but is against tax-payers money being spent on it. If the Greenway money is not received, that is what might happen. The park should be centrally located. Warren questioned why fencing is already installed. Warren said this does not have to do with habitat. The habitat people are not paying for the fencing.

Warren referenced the agreement between the Village and the Town and read the following from paragraph 4:

*Gates to the fence shall be sufficiently wide to allow ingress and egress of Licensee's and Licensor's lawn and snow removal equipment.* Warren feels Town people will be used for lawn cutting and snow removal. *Licensor shall cooperate with Licensee .....* Warrens feels the Village will give a little bit.

It was Warrens' understanding that the Town was not liable if someone is injured. Paragraph 8 states the following: *Licensee will assume full responsibility for its vehicles and those of it employees, agents, and invitees.* Warren says the invitees are the public. Does this not sound like the Town is liable if the dog bites someone?

Paragraph 9 reads: *In particular, but not in limitation of the preceding paragraph, all property belonging to Licensee or any user of the dog park will be there at the risk of Licensee.* Warren does not feel this was very well thought out.

Warren also does not understand why the fence is up there. The bid was illegal.

AGENDA:

Reiter asked for additions to the agenda. Bax requested the addition of a resolution regarding the Niagara Falls Storage Site. Winkley requested the addition of an executive session following the meeting regarding contract litigation.

**Bax MOVED to approve the agenda, as amended, Seconded by Marra and Carried 4 – 0.**

MINUTES:

**Bax MOVED to approve the Regular Town Board meeting minutes of March 22, 2010 and Town / Village Joint Meeting minutes of April 12, 2010, Seconded by Marra and Carried 4 – 0.**

POST AUDIT:

**Winkley MOVED to approve Post-Audits for Home Depot - \$266.60; Radio Shack - \$59.99; Sam's Club - \$705.28; Wal-Mart - \$36.00, Seconded by Bax and Carried 4 – 0.**

OLD BUSINESS:

GPS Equipment - Sharpe submitted a memo to the Board requesting RFP's be sought.

**Reiter MOVED to throw-out the bids written on the Purchase Work Sheet dated April 12, 2010 and re-bid the GPS system, Seconded by Marra and Carried 4 – 0.**

#### **Purchasing Worksheet Approval**

Reiter asked for comments. Board members had none.

**Bax MOVED to approve the Town of Lewiston Purchasing Work Sheet as presented, Seconded by Winkley and Carried 4 – 0.**

#### **Electrical Engineering Survey proposal**

The Engineer was unable to complete for today's meeting. Wzontek will have it for the May worksession.

#### **Fence located on Lower River Road**

Reiter suggest fence companies be contacted for a rough cost estimate. The owner of the property also needs to be determined.

NEW BUSINESS: None

#### **SUPERVISOR REITER:**

Surplus equipment – Highway Dept.

**Reiter MOVED that the surplus equipment outlined in the memo from Kevin Payne – Deputy Highway Superintendent dated April 15, 2010 go out for bid, Seconded by Marra and Carried 4 – 0.**

**Reiter MOVED to authorize the Clerk to advertise for bids for the surplus equipment, Seconded by Bax and Carried 4 – 0.**

The Town received a letter from The Dax Law Firm, P.C, suggesting John Dax's fee be paid on an hourly rate.

**Winkley MOVED to pay Atty. John Dax of The Dax Law Firm an hourly rate of \$300/hr, Seconded by Bax and Carried 4 – 0.**

Attorney Michael Dowd has prepared a Firing Range Facility Agreement. Board members asked to review for approval at the May worksession.

Reiter said Johnson has worked hard on the Town's insurance. Different agencies have been researched.

Johnson said the Town's agent was asked to get quotes from other carriers. At present, the Town coverage is \$237,259 with a \$15,000 deductible. It was \$25,000. There is a \$5-

million umbrella policy. Travelers Insurance Co. was able to quote \$196,224, with no deductible on ground and \$10-million umbrella policy.

COUNCILMAN BAX:

The Council on the Arts will be starting the Saturday concert series on May 8<sup>th</sup>.

The following resolution involves the Dept. of Energy classification of the LOOW facility property, one on which is Town owned.

**Bax MOVED the following:**

Whereas the U.S. Department of Energy issued a draft report titled, *“Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches, March 2010.”*

Whereas, this report evaluates the appropriateness the Dept. of Energy environmental certifications of certain Niagara Falls Storage Site vicinity properties undertaken in the 1980’s;

Whereas, one of these vicinity properties is owned by the Town of Lewiston;

Whereas, the history of the environmental impacts to the subject Lewiston property is extensive and complex;

Whereas, the public comment period on this Dept. of Energy report expired April 23, 2010 and has reportedly been temporarily extended to May 23, 2010;

Be it Resolved that the Town of Lewiston formally requests from the U.S. Dept. of Energy, an additional 90-day extension of the public comment period to August 23, 2010 in order to review the report and solicit input from other agencies and informed members of the public to determine what, if any comments the Town may want to provide;

Be it further Resolved that the Town of Lewiston requests the Dept. of Energy to create a fair and transparent decision-making process when considering the referral of any previously certified NFSS vicinity property to the U.S. Army Corps of Engineers at taxpayer expense, and, that the referral process;

- a.) Inform the public of each referral request:
- b.) Provides public access to information provided to Dept. of Energy by any agency or party for review of such requests:
- c.) Provides the opportunity for the public to comment on such information, prior to a Dept. of Energy decision to refer tax-payer funded investigation to the U.S. Army Corps of Engineers on a previously certified vicinity property.

A copy of this Resolution shall be immediately transmitted to the Dept. of Energy.

**Seconded by Marra and Carried 4 – 0.**

COUNCILMAN MARRA:

The Niagara River Region Chamber of Commerce will be having their Annual Awards Gala on May 21<sup>st</sup>. The Citizens and Business of Year awards will be distributed. There are approximately 30 people from the Home Delivered Meal program that will be recognized. This award was designated by Supervisor Reiter.

A quarterly newsletter is being planned. The first issue is hoped to be out in July. Department heads will have the opportunity to inform residents of up-coming projects or events.

COUNCILMAN WINKLEY:

Artpark update. Winkley has not had the opportunity to speak with Neil Nolf.

Addition to Upper Mountain Fire Company roster:

**Winkley MOVED to add Christopher Copland – 3742 Blair Court, Blasdell, NY to the Upper Mountain Fire Company roster, Seconded by Bax and Carried 4 – 0.**

Addition to Haz-Mat Control Commission

**Winkley MOVED to add Rick O'Hara – 3144 Palmer Road, Ransomville, NY to the Haz-Mat Control Commission, Seconded by Marra and Carried 4 – 0**

Winkley requested that Bob Nablo attend the Worksession of May 10, to discuss the water pressure pits.

Winkley said the bus tour the Board took was pretty eye opening. Reiter thought it was time well spent and thanked department heads for their participation.

Reminder that the May 10<sup>th</sup> Worksession will start at 5 p.m., to speak with National Grid.

**Marra MOVED to enter into Executive Session to discuss Litigation and Contractual, Seconded by Bax and Carried 4 – 0.** (6:30 p.m.)

**PRESENT:** Supervisor Reiter, Councilmen Bax, Marra and Winkley (6:50 p.m.)

Discussion on Contractual and Litigation.

No actions taken.

**Marra MOVED to exit Executive Session, Seconded by Winkley and Carried 4 – 0.** (7:41 p.m.)

Respectfully Transcribed and Submitted:

Donna Garfinkel  
Deputy Town Clerk